NEW MEXICO LONG-TERM CARE OMBUDSMAN PROGRAM

INTERNAL POLICIES AND PROCEDURES MANUAL

April 2015

Table of Contents

List of Appendices

CODE OF ETHICS

The Office of the Long-Term Care Ombudsman program works to promote:

- each resident's right to self-determination,
- each resident's optimal level of functioning and independence,
- each resident's informed participation in decision making with all members of:
  - the long-term care community, and
  - the protection continuum for vulnerable individuals.

The primary responsibility of the Long-Term Care Ombudsman is to promote residents' rights and well-being. Ombudsman Office staff and certified volunteers are guided in this endeavor by the residents' wishes as opposed to what someone else considers the residents' best interests. Resident wishes direct the manner in which a complaint is to be resolved and the degree of anonymity to be maintained. The Ombudsman Office safeguards the residents' right to privacy by protecting information. All complaints brought to the attention of an ombudsman are confidential and can be discussed only with persons who are authorized to assist with their resolution. The name of the complainant or resident will not be revealed unless the complainant or resident has specifically granted permission, or unless authorized by the State Ombudsman for a systemic or multi-agency investigation undertaken on behalf of a group of residents. The Long -Term Care Ombudsman provides advocacy services unrestricted by personal beliefs or opinions and without regard to age, social or economic status, personal characteristics, race, sex, sexual preference, marital status or disability. The Ombudsman Office respects and promotes a resident's right to self-determination and makes every effort to determine and act in accordance with the resident's wishes. The resident or potential resident is considered to be the client of the Ombudsman Office, regardless of who contacts the program. Ombudsman staff and volunteers act in accordance with the standards, practices, policies and procedures of the Long-Term Care Ombudsman Office. Each ombudsman upholds his/her legal and professional responsibility to act on behalf of vulnerable individuals, and each maintains competence in areas relevant to the long-term care system such as regulatory and legislative changes and long-term care service options.

All Ombudsman Staff and Volunteers are required to sign ethics and confidentiality forms before interacting with residents and/or viewing resident medical information. (see Appendix A)

1.0 INTRODUCTION

This policy and procedures manual has been prepared for use in guiding the activities of the Long-Term Care Ombudsman Program (LTCOP). The information presented in this document will help the LTCOP meet the requirements of the Older Americans Act, the New Mexico Long-Term Care Ombudsman Act, and other relevant laws and regulations.

The LTCOP is not designed to serve as an emergency response system, but rather, a resident-centered advocacy service. Emergency situations should be referred to DOH's Incident Management system or to"911" for immediate response.

This document will be used to guide the activities of the State Long-Term Care Ombudsman (SLTCO), the Regional Coordinators (RC) assigned to the various regions of the State, other LTCOP program staff and associate and certified volunteers. All representatives of the office are considered Ombudsmen. This document is to be used in conjunction with the Ombudsman Certification Training Manual as a tool for conducting the work of the LTCOP.

2.0 OFFICE OF THE STATE LONG TERM CARE OMBUDSMAN

The Office of the State Long-Term Care Ombudsman is headed by a State Ombudsman who shall provide leadership and management of the Office, and oversight and guidance for the Ombudsman Program. Program representatives include Ombudsman Regional Coordinators, special project and office support staff, and Associate and Certified Volunteers.

The State Ombudsman personally, or through representatives of the office shall:

(1) Identify, investigate, and resolve complaints that are made by, or on behalf of, residents;
(2) Provide services to protect the health, safety, welfare, and rights of the residents;
(3) Inform residents about means of obtaining services provided by the Ombudsman program;
(4) Ensure residents have regular and timely access to services provided through the Ombudsman program;
(5) Represent the interests of residents before governmental agencies, assure that individual residents; have access to, and can pursue administrative, legal, and other remedies to protect the health, safety, welfare, and rights of residents;
(6) Provide administrative and technical assistance to representatives of the Office;
(7) Analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions;
(8) Coordinate with and promote the development of citizen organizations consistent with the interests of residents;
(9) Promote, provide technical support for the development of, and provide ongoing support as requested by resident and family councils to protect the well-being and rights of residents;
(10) Determine the use of the fiscal resources appropriated or otherwise available for the operation of the Office. Fiscal oversight of monies dedicated to the provision of Ombudsman services and;
(11) Determine the dissemination of resident records or files.

Background Checks
Volunteer trainees and staff will undergo a criminal background check, a non-licensed Abuse Registry screen, and a licensing Board (RN, MD, DDS), if appropriate, background check. Prospective volunteers or staff with recent or serious criminal offenses as determined by the SLTCO will not be accepted as volunteers or staff with the LTCOP. Securing the background check will be the responsibility of the State Ombudsman or his/her designate.

3.0 CONFLICT OF INTEREST

Ombudsman will be free of conflicts of interest or be governed by a written plan to manage a conflict of interest to protect residents of LTC facilities as described in Title VII of the Older Americans Act.

The Office of the SLTCO and staff shall be free of organizational and/or individual conflicts of interest and take any appropriate steps to remedy conflicts of interest consistent with **712(f)** of the Older American's Act and NMSA **§ 28-17-15.**

4.0 OMBUDSMAN VOLUNTEER PROGRAM

4.1 VOLUNTEER RECRUITING

Volunteers are the backbone of the LTCOP, providing the majority of resident contacts in long-term care facilities. Recruiting of volunteers is an ongoing activity of the LTCOP. Volunteers leave through attrition and need to be replaced to maintain and expand the program's regular presence in long-term care facilities.

Regional Ombudsman Coordinators are responsible for recruiting new volunteers in their region. Recruiting may include distributing information on volunteer opportunities to mailing lists of outside organizations (such as the American Association of Retired Persons [AARP]), contacts with media outlets such as radio stations or newspapers, presentations at senior centers or churches, and other methods as appropriate. These efforts will be coordinated with the Ombudsman Program Education and Outreach Coordinator.

Prospective volunteers will complete an application describing their skills and background, and will be interviewed by the Regional Coordinator in their region prior to attending any Ombudsman Training.

4.2 VOLUNTEER TRAINING

New volunteers as well as Ombudsman staff are required to complete the Associate Ombudsman Training and the Ombudsman Certification Training conducted by the LTCOP as mandated by NM Law 28-17-7 and pass all exams. The training consists of approximately 20 hours of classroom time and field training. The SLTCO has sole authority to determine or change the training content and required length.

4.2.1 Associate Volunteer Ombudsman Training

The purpose of the Associate Ombudsman (AO) designation is to increase Ombudsman presence in facilities and retain the interest of qualified Ombudsman volunteers through: immediate engagement of volunteers into program activities, which will: provide "eyes and ears" information about a facility to Regional Coordinators, reduce post-certification volunteer attrition, and reduce certification time and money expense.

An individual will be considered an Associate after completing the following to the satisfaction of the Regional Coordinator (RC):

1. A total of 8 hours of training, six of which must be face-to-face, by the RC; additional hours must include visiting facilities, with RC or seasoned volunteer.
2. Training must cover the topics approved by the State Ombudsman
3. Sign a LTCOP Confidentiality form (Appendix A), pass an in-state background check, and pass a 7 question written test.
4. At training completion, a Blue Associate LTCOP badge will be issued stating, "Associate Ombudsman from xx/xx/xx to xx/xx/xx" – for 12 months maximum. Extension of this timeframe requires written approval of the State Ombudsman. If an extension is granted, a new badge will be issued with a new timeframe of dates.
5. RCs will notify facility Administrators of the presence of an AO and explain the role and responsibilities prior to assignment in the facility.
6. AO authorities are to visit residents during normal business hours (seven days a week), meet family members, interact with facility staff, listen to concerns and complaints, attend Residents' Council meetings if invited by the residents, and discuss ALL concerns/complaints with the RC before any action. Paperwork is required to the extent that the yellow Facility Visit Summary sheet must be sent monthly to the RC (Appendix D). Data entry and tracking will remain the responsibility of the RC.
7. The AO agrees to visit the facility at least once a week.
8. The AO is to attend regular monthly volunteer in-service trainings with the Certified Volunteers.
9. Unless under the specific direction of their RC, AO's may not: visit a facility outside normal business hours; conduct an investigation; call in complaints to DOH/APS, unless reporting a witnessed abuse/neglect/exploitation; read a resident chart; attend care plan meetings; and/or any other duties which Ombudsman do not perform.

4.2.2 Certification level training

In order to reach certified volunteer status, volunteers must pass AO training and attend at least 12 hours of training approved by the State Ombudsman. Each Ombudsman trainee will receive a copy of the Resource Manual for Volunteer Ombudsmen, which includes copies of relevant State and Federal Statutes and regulations, as well as resources for use in receiving, investigating and resolving complaints. Certification training will include tools about how to effectively use the sections of the resource manual.

Ombudsman training will include guidance on the use of forms for recording Ombudsman activities for state and national reporting requirements. The Ombudsmen will be instructed to complete a Facility Visit Summary Sheet for each visit to a facility, a Case Report form for each complaint that cannot be entered on the Facility Visit Summary Sheet and a Monthly Summary of Ombudsman Activity at the end of each month. The use of these forms is described further in Section 5 and copies of each form are included in Appendix B.

4.3 On-going In Service training

Ombudsman volunteers are required to participate in ongoing training with LTCOP staff to maintain their certification as LTC Ombudsmen.

4.3 .1 Monthly Training

Regional Coordinators will conduct at least 9 monthly volunteer meetings. These meetings will typically consist of a presentation by a speaker on a topic of interest and value to the volunteers, as well as an opportunity to discuss current cases and observations with other volunteers and with the Regional Coordinator. When volunteers live in cities other than the home city of the Regional Coordinator and these volunteers are unable to attend the monthly meetings, the Regional Coordinator will hold meetings in other cities as appropriate. These meetings will consist of a speaker if practical, and at a minimum will include updates and training from the Regional Coordinator on topics of importance to the volunteers. The Regional Coordinator will provide handouts or verbal summaries of monthly meeting proceedings to those volunteers that are unable to attend the meeting. Regional Coordinator will submit to the SLTCO in December of each year a list of topics covered discussed at their regional volunteer in-service trainings.

4.3.2 Annual Statewide Volunteer Training

Once each year the LTCOP will conduct a statewide meeting and training session for volunteers. This meeting will consist of training on topics helpful in improving the skills and LTC knowledge of the volunteers. Organizing and overseeing the Annual Statewide Training will be the responsibility of the Education and Outreach Coordinator in conjunction with the SLTCO.

4.4 Placement of a Volunteer at a Facility

The Regional Coordinator will be responsible for assigning each new volunteer to a facility or facilities in the volunteer's area. The Regional Coordinator will make an initial visit to the facility with the volunteer for the purpose of introducing the volunteer to facility staff, orienting the volunteer to the routine activities and documentation of the LTCOP and answering any questions the volunteer may have regarding the program. The Regional Coordinator will insure that the volunteer has a current facility census with residents'

names and room numbers. In addition, appropriate facility staff will be asked to notate those residents that do not have regular visitors and those residents that appear to be in need of ombudsman services. A list of expectations for volunteer Ombudsmen is included (see Appendix C). The Regional Coordinator will provide support to the volunteers until the volunteer is comfortable visiting the facility alone. Veteran volunteers are approved to provide this support.

4.5 Confidentiality

Volunteer trainees will sign a confidentiality agreement stating that they agree to refrain from discussing or releasing information obtained during their Ombudsman activities to any outside individuals or agencies without permission of the LTCOP staff.(see Appendix A)

In addition, it is against LTCOP policy to use an audio or video recording device without the knowledge and consent of all persons present. (see Appendix H).

4.6 Volunteer Retention

The Regional Coordinator will provide regular support to the volunteer Ombudsmen to maximize the retention of the existing volunteers. Factors that contribute to the retention of volunteers include twice a month telephone contact with seasoned volunteers, weekly contact with new volunteers up to at least 6 months, flexibility of scheduling of volunteer facility visits, and the availability of ongoing training activities. The Regional Coordinator will contact a volunteer if they fail to turn in a facility visit sheet within 30 days from the end of a month. The Regional Coordinator will strive to retain qualified volunteers by these and other means to the extent possible. The nationally recognized manageable number of volunteers to be supported by a Regional Coordinator who is exclusively a volunteer coordinator is 28.

4.7 Volunteer Separation from Program

Leave of Absence

Volunteers may request a leave of absence from the Regional Coordinator for up to six months and be considered an Inactive Volunteer. Regional Coordinators will maintain periodic contact with these volunteers to ascertain their readiness to resume duties.

Termination

Volunteer Ombudsmen who do not regularly attend training sessions, who do not complete regular weekly facility visits, and do not adhere to the policies of the LTCOP will be considered for termination from the program. Final determination of volunteer termination rests with the SLTCO.

Volunteers leaving the program will receive a termination letter from the State Ombudsman or his/her designate, thanking the volunteer for their service, with a request to return the volunteer Ombudsman badge and business cards. **Badges must be returned and destroyed by the Regional Coordinator**.

5.0 FACILITY VISITS

The goal of the Ombudsman Program is to ensure a regular presence of advocacy for residents of each long-term care facility in New Mexico. For facilities with an assigned volunteer, the volunteer is encouraged to visit the facility each week at unscheduled times. For facilities with no assigned volunteer, typically smaller Assisted Living facilities, the goal is to have an unannounced visit by a volunteer or Regional Coordinator quarterly. Ombudsman facility visits are unannounced and therefore Ombudsmen are not required to sign in upon arrival, however, they may do so as a courtesy. Volunteers will check with their Regional Coordinator.

Unlicensed facilities should be visited by the Regional Coordinator as soon as practicable after they have been identified. Once an unlicensed facility has been identified, it will be added to the list of facilities and scheduled for regular visits. Visits to unlicensed facilities should initially involve the Regional Coordinator who can (if necessary) coordinate the support of Adult Protective Services and/or Sheriff Department personnel as needed. Associate Ombudsman are not permitted to visit unlicensed facilities. Certified volunteers should visit unlicensed facilities only under the supervision of their Regional Coordinator.

Facilities unfamiliar to the program should initially be visited by two representatives of the office.

6.0 CASE REPORTING

Ombudsman presence supports an environment that enhances resident safety and promotes resident's rights. Resolving complaints/cases made by or on behalf of residents of long-term care facilities is one of the long-term care ombudsman program's highest priority service. Repeat resident contacts are essential to building rapport and trust with the resident and family.

A **resident contact** is an interaction with the resident regarding the health and wellness of the resident and/or to establish rapport.

A consultation is providing information and assistance to an individual or a facility. It does not involve investigating and working to resolve complaints (i.e., a consultation is not a case). If the ombudsman refers someone with a concern to another agency and is not actively involved in investigating and working to resolve the problem, it is not an ombudsman case or complaint. However, it should be counted as a consultation for national reporting purposes..

A complaint is a concern brought to, or initiated by the ombudsman for investigation and action a) on behalf of one or more residents and b) relating to the health, safety, welfare or rights of a resident. One or more complaints constitute a case. You cannot have a case without a complaint.

A case includes one or more complaints brought to, or initiated by, the ombudsman in which the ombudsman is actively involved and/or which the ombudsman investigates and works to resolve. There may be complaints in which the

ombudsman is actively involved which another agency investigates and also helps to resolve. One or more people jointly filing a complaint is logged as one complainant.

Complaints brought to the Ombudsman are resident centered circumstances or issues that require the ombudsman to investigate and/or conduct interviews to access resolutions. Whenever questions arise regarding appropriate LTCOP practice in handling complaints, the SLTCO should be contacted for guidance. It is the policy of the NMLTCOP to initiate resident contacts and facility/family consultations frequently and liberally to reduce the need for formal complaint investigations. Although the issues and circumstances of the complaints will vary, the following should apply to complaint handling.

6.1 Complaint/Consultation Intake

Complaints/consultations to the LTCOP can be accepted either at an office of the program or by volunteers or staff Ombudsmen during facility visits.

6.1.1 Initial Complaint Screening

The first step in complaint intake is to determine whether the complaint is appropriate for investigation or follow-up by the LTCOP. This determination should include the following:

- Is the complaint regarding an issue that is within the jurisdiction of the LTCOP?
- Does the complaint appear to be generally valid, or potentially valid?
- Should the complaint be immediately referred to DOH and or APS?

Examples of complaints which are not appropriate for LTCO investigations include those which:

- Do not impact a resident or former resident of a long-term care facility;
- Are outside the scope of the mission or authority of the LTCOP, such as involving a hospital;
- Would place the LTCOP in the position of having an actual or perceived conflict of interest with the interest of a resident or residents, or
- Are personnel grievances by facility staff about their working situation.

6.1.2 Complaint Documentation

When an Ombudsman receives information regarding a complaint, the ombudsman shall:

- Record the name of the Ombudsman and the date of the report;
- Record the name and contact information for the complainant, the resident's name, age, and sex, the facility name, the relation of the complainant to the resident, the Intake date and the date of first action;

- Document the resident's wish to continue to investigation, or document reason for declaring a systemic investigation
- Identify the complaint or complaints and source of conflict, including
    - what outcome the complainant is seeking; and
    - what attempts have already been made to resolve the complaint(s);
- Record a narrative of the complaint(s) on the appropriate reporting form;
- Determine the complaint code(s) using the uniform complaint categories and numerical codes used by the LTCOP (See appendix D).

Note: Use **Facility Visit Form** if the complaint is resolved during the facility visit. Use **Case Report Form** if the complaint requires follow-up and/ or another visit. (see Appendix C)

All complaints must be entered in Ombudsmanager by the time the case is closed.

6.1.3 Complaints

Complaints may be reported to the LTCOP from long-term care facility residents, families or friends of residents, non-relative guardians, legal representatives, ombudsmen, facility administrator/staff or former staff, representatives of other health or social service agencies or programs, or any other person.

Outside Agency Reporting and Systemic Complaints – An ombudsman shall open a case and file a complaint with the enforcement/regulatory agency when the ombudsman has personal knowledge of an action, inaction, or decision that may immediately adversely affect the health, safety, welfare, or rights of residents and no other person has made a complaint on such action, inaction or decision. If an adversely affected resident does not wish the ombudsman to proceed with the complaint, an investigation will not be conducted by the ombudsman and the complaint will not be referred to another agency unless the ombudsman has personally witnessed an unsafe circumstance. However, the LTCOP has the authority to generate a systemic complaint on behalf of all or some residents and a referral may be sent to APS, the regulatory agency or law enforcement as necessary. Volunteers who wish to file a complaint with APS, regulatory agencies or law enforcement must also notify their Regional Coordinator prior to contact with the outside agency.

Anonymity - Complaints may be made anonymously to the LTCOP. The identity of anonymous complainants must not be released, except by court order, and the investigation must be conducted in a way that prevents the identity of the complainant from being discovered. If the ombudsman receiving the complaint is able to communicate directly with the anonymous complainant, the ombudsman may explain to the complainant that, in some circumstances, anonymity could limit the ability to investigate and resolve the complaint. Ombudsmen should clearly explain those circumstances in which a guarantee of anonymity may not be possible, (for example, investigating a specific billing matter) so that a complainant can make an informed decision regarding how he or she would like to proceed.

Alternatives for handling the complaint – In some cases it may be appropriate to suggest to a complainant an alternative to LTCOP involvement to resolve an issue, such as direct

contact with the regulatory agency, corporate owners or legal services. In these cases the Ombudsman should:

- encourage the complainant to personally take appropriate action, with LTCO assistance if needed;
- explain that the LTCO role is to act in accordance with resident wishes; and
- explain the LTCOP policy of confidentiality.

For example, an adult child who is not the assigned surrogate decision-maker of his/her parent may wish to seek a court-appointed guardianship of a parent if he/she feels the Power of Attorney or other surrogate decision-maker is not acting in accordance with the parent's wishes or best interests.

6.2 Complaint Referrals

Complaints shall be referred by the LTCOP to other agencies that have jurisdiction over the issues of the complaint in accordance with the operational guidelines of the Protocol for Joint Investigation of Health Facilities (the Joint Protocol). The resident's permission should also be obtained before a referral is made. The Joint Protocol includes the LTCOP, DOH/DHI, APS and the Human Services Department/ Medical Assistance Division. DOH is the responsible agency for the administration of Joint Protocol. Complaints may also be referred to other entities such as Lawyer Referral for the Elderly Program (LREP) or Senior Citizens Law Office (SCLO) for legal issues or Protection and Advocacy System for mental health/developmental disability issues. Complaints may be referred when one or more of the following applies:

- another agency has resources that may benefit the resident;
- the action to be taken about the complaint if outside of the LTCOP's authority and/or expertise (e.g., Office of the Attorney General, local law enforcement, Adult Protective Services and/or the DOH/HF L&C takes enforcement actions);
- the LTCO needs additional assistance in order to achieve resolution of the complaint; or
- the resident requests the referral to be made.

An Ombudsman may encourage residents or complainants to contact directly the appropriate regulatory agency to file a complaint and offer information and assistance to residents or complainants in making such contact.

All complaints where abuse, neglect, or financial exploitation of any adult is personally witnessed must be reported. If the witnessed complaint is perpetrated by a long-term care facility staff person, report to DOH/DHI hotline (1-800-752-8649). If the witnessed complaint is perpetrated by a person not under the control of the facility (e.g. outside caregiver, family member, friends of staff) report to APS hotline at 1-866-654-3219

6.3 Complaint Investigation

The primary purpose of complaint investigation is to obtain the information necessary to resolve a complaint to the satisfaction of the resident. With resident permission, the ombudsman needs to gather enough information to determine if the complaint is a. unfounded, b. if the complaint can be resolvable with facility staff, and/or c. if the complaint is egregious and requires immediate referral to Department of Health, Division of Health Improvement hotline **(1-800-752-8649).**

6.3.1 Response Time

An ombudsman shall use his or her best efforts to initiate complaint investigations in a timely manner in order to resolve the complaint to the satisfaction of the resident. **Contact with the complainant should be made within 2 business days (with all complaints).**

The LTCOP is not designed to serve as an emergency response system. Emergency situations should be referred to DOH's Incident Management system or to"911" for immediate response.

IF a complaint involves...	THEN the standard of promptness for LTCOP response is...
Abuse or gross neglect, and the ombudsman has reason to believe that a resident may be at risk for harm	❑ Initiate an investigation within the next working day ❑ Call Regional office and State office ❑ Contact the Department of Health hotline
Actual or threatened transfer or discharge from a facility	❑ (Prior to the date of the threatened action) Initiate an investigation according to whichever occurs first: ❑ five (5) working days, ❑ last day of bedhold period (if resident is hospitalized), or ❑ last day for filing an appeal for an administrative hearing
Other types of complaints	Initiate an investigation if appropriate within 10 working days

Where the LTCOP will be unable to initiate investigations in a timely manner (e.g., due to a planned vacation or extended illness), the ombudsman and the Regional Coordinator shall develop a plan for temporary coverage in order to meet the standard of promptness.

6.3.2 Resident Focus

Regardless of the source of the complaint, the resident or applicant to a long-term care facility will be considered to be the client of the LTCOP.

Client Interviews – Residents are an important part of any complaint investigation. If a resident is competent and/or able to communicate, the ombudsman should discuss the complaint with the resident in order to:

- Determine the resident's perception of the complaint;
- Determine the resident's wishes with the respect to the resolution of the complaint;
- Advise the resident of his or her rights; and
- Work with resident in developing a plan of action

Regulatory Violation - Where the complaint relates to a LTC facility regulatory violation, the ombudsman shall inform the resident and/or complainant that the ombudsman has the opportunity to provide information to DOH and seek resident and/or complainant permission to share the complaint information. With permission, the ombudsman shall provide the name of the complainant and/or resident to the DOH complaint management team. The ombudsman or Regional Coordinator will initiate contact with DOH by the next business day.

Consent refused or withdrawn – Residents, at any point during the complaint process, may express that he or she does not want the ombudsman to take further action on a complaint. In this circumstance, Ombudsmen are to follow the wishes of the resident and cease action on behalf of this resident unless the Ombudsman determines the resident is at risk for harm. For all complaints in which the resident refuses or withdraws consent, the ombudsman shall:

- attempt to determine why the resident withdrew consent, considering factors such as:
  - past response of facility to complaints;
  - the resident's relationship with the staff
  - the experience of this resident or other residents in the facility related to this type of complaint;
- inform the resident that he or she may contact the ombudsman regarding the withdrawn complaint or other complaints in the future;
- provide a business card or brochure informing the resident how to contact the program; and
- determine if a systemic investigation is warranted and contact State Ombudsman.

The ombudsman shall determine whether further efforts should be made on a particular complaint if, for example, multiple residents are involved.

The ombudsman shall consider if a resident is able to provide consent. If ability to consent is in question, the ombudsman shall advocate for a resident's wishes to the extent that the resident can express them, even if the resident has limited decision-making capacity. The presence of a guardian does not negate the role of the Ombudsmen as an advocate.

If the resident...	THEN the LTCO shall...
❑ Refuses to consent to have ombudsman work on the complaint, or ❑ Withdraws consent before the ombudsman has verified the complaint	❑ Discontinue work on the complaint and maintain contact with the resident.
❑ Withdraws consent after the ombudsman has verified or partially verified the complaint	❑ Discontinue investigation and resolution activities on the complaint; determine, during subsequent visits to the facility, whether the type of complaint is recurring. If it is recurring, the ombudsman shall determine whether the circumstances merit other strategies towards resolution which would not involve or disclose the identity of the resident who has withdrawn consent (e.g., filing an ombudsman-generated complaint, presenting the issue to the resident or family council). Volunteer Ombudsmen should notify Regional Coordinator for guidance.

When a resident appears unable to provide consent to a LTCO to work on a complaint directly involving the resident, the LTCO shall contact resident's designated surrogate decision-maker.

If competency appears to be in question, and in the absence of a designated surrogate decision maker, the Ombudsmen shall initiate discussion with facility administrator or Director of Nursing to inquire about natural surrogates (per the Uniform Health Care Decisions Act) acknowledged to speak on behalf of the resident.

In the absence of a surrogate decision maker and an immediate need to preserve health, safety, welfare and rights of the resident, Ombudsmen are to contact the State Ombudsman.

6.3.3 Investigation Process

Preparing for the Investigation - After a complaint is voiced, the LTCO shall determine how to investigate effectively. **All Ombudsman activity shall be date documented.** The LTCO shall consider:

- What is the complaint about? In what general category does it fall (for example, residents' rights or nursing care facility problem);
- Who are the persons involved?
- Who is responsible and who has the power to do something? It will be important to gather names and contact information.
- Phone numbers and addresses of all people who have some role in the situation.
- A complaint about resident care could include: the complainant; the resident; the facility nursing staff, the facility administrator, and the resident's physician. Another health care facility (hospital, nursing home) where the

resident was recently treated may be an important element in determining the cause of the resident's condition.

- Determine if the resident's diagnosis could impact the situation (example: skin breakdown at end of life, or blood thinner medication and bruising)
- What, if any agencies are, or should be involved? (example: hospice)
- What steps has the complainant already taken to resolve the matter? For example, has the complainant talked with the administrator, director of nursing, or any charge nurse? Has the complainant contacted the physician? Have there been any meetings with staff of the facility? Have any other agencies been contacted? If the complainant has not taken any actions about the problem, Ombudsmen are then in a position to suggest possible steps he/she can take.
- What, if any, law or rules may be relevant? If the complaint is about resident rights, for example, you may need to review the federal and State laws on resident rights.
- What result is the complainant seeking?
- A goal of the Ombudsman program is to empower residents, therefore, is it possible to enable the resident to resolve or partially resolve the complaint on their own?

Investigation Procedures - There are a many steps that should be followed in the investigation of a complaint. See Appendix D for steps and suggestions.

6.3.4 Complaint Verification

A complaint is verified if it is shown that the alleged problem does exist or did occur. Formal verification is a matter of reviewing the facts, ensuring that you have proper documentation, and then proceeding with the resolution of the complaint or with informing the complainant that you cannot verify the problem. "Verification "means the complaint is generally shown to be accurate.

The threshold of proof for verification of a complaint by the LTCOP is lower than the threshold for APS or DOH to "substantiate" a complaint. APS follows a "Preponderance of Evidence" standard, and DOH follows a "Clear and Convincing" standard, in order to substantiate a complaint. All three agencies may turn over investigation data for potential criminal prosecution.

6.3.5 Complaint Resolution

Upon verifying a complaint, the ombudsman shall work with the resident and/or surrogate decision-maker (as appropriate) to determine a *plan of action* to resolve the complaint:

- The ombudsman shall consider the following factors in developing the *plan of action*:
  - The scope of the complaint;
  - The history of the facility with respect to resolution of other complaints;
  - Available remedies and resources for referral;
  - Who would be best able to resolve the complaint; and

One or more of the following may be an appropriate *plan of action* in resolving complaints:

- Explanation—i.e., the findings of the investigation do not indicate a need for change or require intervention. The resident or complainant receives an explanation which satisfied the initial problem;
- Negotiation—i.e., the ombudsman advocates on behalf of or with the resident or complainant in discussing the complaint with the appropriate facility staff or other relevant party to develop an agreement that resolves the complaint;
- Mediation—i.e., the ombudsman acts with impartiality between parties of **equal status** (e.g., between residents or between family members) to assist the parties in developing an agreement that resolves the complaint;
- Administrative hearings with Medicaid regarding discharge issues;
- Coordination with and/or referrals to appropriate Joint Protocol agencies (DOH, HSD,APS) or law enforcement;
- Legal remedies – Ombudsmen can refer residents to community legal providers (Senior Citizens Law Office, Legal Resources for the Elderly, Legal Aid, etc) to pursue available legal remedies
- Legislative changes- promoting legislation that, when enacted, will allow resolution of similar problems. Legislative suggestions on behalf of the Ombudsman Program must involve the State Ombudsman.
- Media involvement- only by State Ombudsman.

6.3.6 Case/Complaint Closure

The goal of the LTCOP is to close all cases after 45 days when any of the following occurs:

- The complaint has been resolved to the resident's satisfaction;
- The complaint cannot be verified or was not made in good faith;
- Further activity by the ombudsman is unlikely to produce satisfaction for the resident;
- The complaint is not appropriate for ombudsman activity or no further response on the complaint for the agency to which the referral was made; or
- The resident requests that ombudsman activity end on the complaint.

Monitor Resolutions The ombudsman shall continue to monitor the circumstances of the complaint to:

- Determine whether further actions on behalf of the resident should be suggested,
- Verify that resolution of the complaint has occurred,
- Assure the complainant that everything possible has been done, the
- A case should be closed when ombudsman intervention no longer applies.

6.3.7 Case Resolution Notification:

Who is Notified of Investigation Results?	
Complainant (Not Resident)	Not without Resident Permission
Resident	Yes
Family Member	Not without Resident Permission
Facility Staff	With Resident permission or as a Resident-approved plan of action
Department of Health	As appropriate
APS	As appropriate

6.3.8 Discharge Fair Hearing

An important right residents are given is a right to a discharge notice. Residents in nursing homes must receive a 30 day discharge notice prior to being discharged against their will, unless the discharge is an emergency to protect the resident or other residents. **Involuntary discharges may be appealed**. The facility must indicate the reason for the discharge and notify the resident of their right to a hearing. The LTCOP must be referenced in the letter of discharge and may contact the Medicaid Hearing Officer, if the resident disputes the discharge. In addition to a discharge hearing, a Medicaid resident is entitled to a Fair Hearing if their benefits are terminated. A Medicaid Hearing Officer conducts these hearings. Assisted Living residents must receive a 15 day notice of discharge. For Medicare-related discharge complaints, the resident or surrogate decision maker has the right to contact the Medicare Quality Improvement Organization for review.

7.0 INFORMATIONAL CALLS/TELEPHONIC CONSULTATIONS

Calls that come in to the LTCOP that do not consist of complaints must also be recorded with **date of contact**. These calls may include:

- Requests for information on complaints against particular facilities;
- Requests for lists of local residential care facilities;
- Requests for assistance that are referred to other programs (e.g., LREP, Benefits Assistance, etc.);
- Requests for information on becoming a volunteer Ombudsman;
- Other issues.

General information on these types of calls (number of calls, number of calls referred to other programs) are included as consultations in the annual National Ombudsman Reporting System (NORS) report submitted to the federal Administration.

8.0 DOCUMENTATION

1. Records Management -
    - The case report is the official document in which case information is recorded and maintained. The case report is confidential and all information contained should be handled according to established program protocols for handling confidential information. It is the responsibility of each Ombudsman to record information in an accurate, timely manner. Records must be neat and orderly. Ongoing contact showing progress in the case record must be documented.
    - Maintenance of case records, whether on computer system or hard copy, is an important and necessary part of the LTCOP's services to clients. Record keeping is important for providing a log of relevant case information and for monitoring agency accountability.
    - Case Notes - All activity will be documented in case notes, including date and contact information. Case activity includes telephone calls, facility visits, interviews, nursing consultation requests, etc. Ombudsmen may use the standardized abbreviations listed in Appendix F.

2. Timeliness -
    - Cases should be entered into the Ombudsman database within maximum of 45 days after the date of the referral.
    - Cases shall be closed in the Ombudsmanager system 60 days after the opening date.
    - A case may remain open over 60 days if exigent circumstances mandate that an ongoing investigation is prudent and necessary and within the best interests of the resident. All cases over 60 days must be reported to the State Long Term Care Ombudsman.
    - Additional monitoring may be required for recurrence.

3. Referral Information logged in Ombudsmanager
    - case number if opening a case
    - record the date received
    - record the date report was referred
    - record to whom the report was referred to
    - record what facility was involved
    - record the resident name
    - record subject of report

Hard File Content Organization

1. Closed Files
    - Close case by facility
    - Tracked by case number in a facility folder

2. Open Files
    - Temporary working file, by facility in chronological order

3. Archiving Documents
    - Old case and documents will be logged and sent to state archives after 3 years

9.0 ACCESS TO RECORDS

Procedure

Ombudsmen shall access resident's medical records in accordance with federal and state statutes.

- Ombudsmen must make every attempt to obtain: Written or verbal permission from the resident/surrogate decision maker to obtain resident's medical records
- If the Ombudsmen is unable to obtain verbal/written consent and determines an urgent situation, the Ombudsmen should consult with the regional or state office for approval prior to requesting resident records.

Non-Medical Records

For complaint investigations, Ombudsmen should consult with the RC or State Ombudsman prior to requesting non-medical information from the facility.

Denial of Access and Obstruction of Ombudsman Duties

As defined in state statute, examples of Obstruction and Denial of Access may include:

- Refusal to let Ombudsmen in facility
- Facility failing to notify Ombudsmen of a request for their advocacy services
- Facility's denial of access to records immediately for readily available documents (stored on-site)
- Denial of access to records after 24 hour timeline on non readily available medical records (stored off-site)

Retaliation

Competent resident and/or family testimony that goods or services will be or has been withheld because of a complaint made to the Long Term Care Ombudsman Program. Evaluation that a resident is not receiving goods/services other residents receive and that services were stopped shortly after a complaint was made to the LTCOP. Retaliation enforcement covers residents, family members and facility employees.

10.0 CONFIDENTIALITY AND OTHER LEGAL SAFEGUARDS

Under the Older Americans Act, states are required to establish procedures to protect the confidentiality of residents' records and the Ombudsman files. States are also required to ensure the identity of any complainant or resident is not disclosed unless the resident has provided written consent or a court order is issued (42 USC Section (A) (12) (B) and (b)).

Under the provisions of the Nursing Home Reform Act of 1987, nursing home residents have a right to privacy with respect to personal and clinical records, medical treatment,

accommodations and association or communications with others (42 USC S 1376R Section (c) (1) (A) (iii) - (iv)).

The Ombudsman shall protect the confidentiality of residents' records and shall permit access to such records only in accordance with regulations of the Office of the Long-Term Care Ombudsman.

The Ombudsman shall protect the confidentiality of files maintained by the Ombudsman and shall permit access to such files only under conditions as the State Ombudsman, in his/her sole discretion, deem appropriate.

The Ombudsman shall not disclose the identity of any complainant or resident unless a court orders such disclosure or the complainant or residents consent in writing to the disclosure of his identity.

10.1 Anonymous Complaints

The Long-Term Care Ombudsman Program shall accept both anonymous complaints and complaints from persons who do not wish to have their identities disclosed.

If a complaint is specific and affects only one resident who is the complainant, Ombudsmen will get the person's permission to proceed. If the complainant/resident refuses permission the Ombudsman will document the refusal in the case record and the Long-Term Care Ombudsman intake log.

10.2 Confidentiality and Disclosure

Complaint information regarding an individual complainant, resident, or facility will be made available to Volunteer Ombudsman on a need to know basis. For example, if the Volunteer Ombudsman initiates the complaint, information may be shared as warranted. Ombudsmen, doctors, nurses and others in the health care profession have a legal obligation to maintain the confidentiality of any information concerning the resident's illness or treatment, which they acquire in the course of their professional duties. Use of e-mail containing resident information is permitted with a confidentiality disclaimer stated at the bottom. Resident initials should be used in place of full name.

All information and documentation collected by Ombudsman staff and volunteers is the property of the Long Term Care Ombudsman Program and shall be treated as sensitive information. Such sensitive information must be secured in a locked filing cabinet and be physically located on State of New Mexico real or leased property, unless expressly authorized by the State Long Term Care Ombudsman.

Each resident shall receive respect and privacy for his medical care program. Case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly. Persons not directly involved in the resident's care shall not be permitted to be present during such discussions, consultations, examinations or treatment.

Personal and medical records shall be treated confidentially and shall not be made public without the consent of the resident, except such records as are needed for a resident's transfer to another health care institution or as required by law or third-party payment contract. No personal or medical record shall be released to any person inside or outside the facility who has no demonstrable need for such records.

In many of the cases that an Ombudsman accepts, the complainant does not want their identities disclosed to anyone - due to fear of reprisals - and especially not revealed to individuals, agencies, or facilities against whom a complaint has been made. An Ombudsman tries to honor this request by conducting the investigation and resolution process in such a manner as to protect the identity of the complainant. A complainant must not, however, be misled into thinking that there is no way the identity of the complainant can be learned, i.e., by anyone against whom a complaint was lodged.

10.3 Access to Resident Records

The Long-Term Care Ombudsman provision of the 1987 Amendment to the Older Americans Act Sec. 307 (B) (12), requires State agency to "establish procedures for appropriate access by the Ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without written consent of such complainant or resident, or upon court order."

a.) The Ombudsman shall have access to any facility or record which is relevant to the performance of his or her responsibilities under this Chapter including any record otherwise rendered confidential under New Mexico law; provided however, that the Ombudsman shall obtain the consent of any resident who is able to consent or any resident's legal agent/representative or guardian for access to such resident's records, unless the ombudsman is conducting a systemic investigation. In that case, the State Ombudsman or Regional Coordinator shall be notified prior to the record request.

b.) The Ombudsman may initiate an investigation of any long-term care facility independent of the receipt of a specific complaint.

c.) Any State agency to which the Ombudsman refers a complaint shall periodically advise the Ombudsman of the status of the investigation of the complaint and notify the Ombudsman in a timely manner of the disposition of the complaint per Joint Protocol.

d.) The Ombudsman shall protect the confidentiality of residents' records and shall permit access to such records only in accordance with regulations of the Office of the Long-Term Care Ombudsman. Records and information will not be released if the complainant is not the resident or resident's Representative in effect or Guardian.

e) The Ombudsman shall permit access to such files only under conditions as the State Ombudsman in his/her sole discretion deems appropriate.

f.) The Ombudsman shall not disclose the identity of any complainant or resident unless a court orders such disclosure, or the complainant or resident consents in writing to the disclosure of his identity.

10.4 Legal Requirements

1. Older Americans Act
   Under the Older Americans Act, states are required to establish procedures to protect the confidentiality of residents' records and the Ombudsmen's files and to ensure that the identities of any complainant or residents are not disclosed unless there is written consent or a court order (42 (A) (12) (B) and (b)).

2. OBRA '87 (Omnibus Budget Reconciliation Act)
   Under the provisions of the Nursing Home Reform Act of 1987, nursing home residents have a right to privacy with respect to personal and clinical records, medical treatment,

3. New Mexico Public Records Act law provides protections.

4. Code of Federal Regulations CMS Medicare and Medicaid Requirements for Long-Term Care Facilities (rules and Regulation/Federal Register, Feb. 2, 1989)

- The resident has the right and the facility must provide immediate access to any resident by (iv) representatives of the Office of the State Long-Term Care Ombudsman (established under Section 307 (a) (12) of the Older Americans Act of 1965).

- The facility must allow representatives of the Office of State Ombudsman, described in paragraph (k) (1) (iv) of this section, to examine a resident's clinical records, and consistent with State laws.

10.5 File Storage

Records will be stored in file cabinets that are locked when not in use. The records and information to be safeguarded include, but are not limited to the following:

1. Identity of individual residents and complaints;
2. Identity of long-term facilities;
3. Notes of interviews with affidavits by complainants or residents;
4. Copies of residents' medical records or diagnoses;
5. Ombudsman Program or other agency office memoranda that are developed in the process of evaluating and resolving complaints;
6. Information containing unverified complaints about long-term care facilities, long-term care facility owners, administrators, staff or other professionals involved in the long-term care system;
7. Complaint files are not to be left exposed and/or unlocked in an unattended office.
8. Complaint files are not to be taken from the work area without prior approval of LTCO supervisor.

Case Management/Security - All files will be kept in locked file cabinets; ombudsman staff may keep open cases in their desk drawers if the drawers are locked. Records are not to be removed from the office without prior supervisor approval.

10.6 Liability

The State will ensure that no representative of the Office will be liable under State law of the good faith performance of official duties (Older Americans Act of 1965, Section 307 (a) (12) (i).

Steps to take to assure Ombudsman staff and volunteers operate within the scope of their official duties include:

1. A periodic review of position descriptions.

2. Specific cautions against delivering any direct care to residents.

3. Specific cautions about confidentiality of information regarding complaint referral and investigation.

4. Required in-service education.

11.0 Grievance Procedure

Complaints against Ombudsman staff or volunteers will be investigated by the State Ombudsman or her designee within 10 business days of receipt of complaint to the Office of the State Ombudsman. Individuals or entities to be notified of the result of an internal investigation will be at the discretion of the State Ombudsman. Individuals or entities unsatisfied with the decision of the State Ombudsman may appeal to the State Unit on Aging Director (SUA). The SUA or his designate will respond to the complainant within 20 business days of the date of appeal with the SUA. The decision of the SUA will be final.

APPENDIX A

ETHICS AND CONFIDENTIALITY FORMS

Susana Martinez, Governor
Gino Rinaldi**, Cabinet Secretary**
Myles Copeland, Deputy Secretary

DATE: _____

I, _____, understand the confidential nature of complaints and other information regarding the Ombudsman Program's long-term care clients and I will not under any circumstances reveal or discuss any confidential information gained while serving as a volunteer ombudsman for the New Mexico Long-Term Care Ombudsman Program. At the conclusion of my service to the Ombudsman Program I will turn in to my coordinator all notes, documentation, reports and files pertaining to the long-term care clients I have served. I also agree to return my pictured badge and business cards at the conclusion of my service to the program.

_____

(signature)

Partners in Lifelong Independence and Healthy Aging
Toney Anaya Building ● PO Box 27118 ● Santa Fe, New Mexico 87502
505-476-4799 ● Toll-free 1-866-451-2901 ● www.nmaging.state.nm.us

ETHICS OF ADVOCACY

An Ombudsman volunteer is subject to a code of ethics similar to that which binds others in the field in which we serve. As a volunteer Ombudsman I will endeavor to:

1. **Provide** ombudsman services with respect for human dignity and the individuality of the resident unrestricted by considerations of age, social or economic status, personal characteristics or lifestyle choices.

2. **Respect** and promote the resident's right to self-determination, making every reasonable effort to ascertain and act in accordance with the resident's wishes.

3. **Assure** that resident's rights as reflected in federal and state laws and regulations are known by and applied to the residents for whose protection they were written.

4. **Safeguard** the confidentiality of residents and not divulge any information obtained in the course of ombudsman activity without proper consent from the resident, unless an immediate life-threatening situation overrides this discretion.

5. **Remain knowledgeable** in areas relevant to the long-term care system, especially regulatory and legislative information, and long-term care service options.

6. **Recognize** the boundaries of my own training and skills and consult with the regional ombudsman coordinator.

7. **Act** in accordance with the Long-Term Care Ombudsman Program, and with respect to the policies of the sponsoring organization and maintain and promote the integrity and credibility of the long-term care ombudsman program.

8. **Participate** in efforts to promote a quality long-term care system.

9. **Avoid any conflict of interest** or appearance of conflict of interest, including financial gain, in the provision of ombudsman services with nursing homes or adult residential care homes (assisted living) or board and care homes.

I will do my utmost to uphold this code as I understand the effectiveness and credibility of this program depends, in part, on the way I carry out my responsibilities.

Signed: _____
Date: _____

APPENDIX B

REGIONAL COORDINATOR TASKS

Regional Coordinator Tasks

1. Volunteer Management
   a. Recruit volunteers
   b. Train volunteers
   c. Monitor and assist volunteers on a case by case basis
   d. Provide volunteer in-service education
   e. Process reimbursements for volunteers
   f. Process volunteer paperwork to insure accuracy (facility visit sheets, case reports and monthly reports

2. Participate in resident care plan meetings as requested by the resident/family or the facility.

3. Participate in team meetings that seek Department of Health "Exceptions" to allow residents to be admitted or retained in Assisted Living Facilities.

4. Provide resource information about long-term care services in New Mexico.

5. Represent the LTCOP at local Joint Protocol meetings.

6. Provide in-services to facility staff, resident and family councils and other groups/agencies that provide services to LTC residents.

7. Support the development of resident and family councils.

8. Identify, investigate and resolve complaints in a timely manner as outlined in the LTCOP P&P's.

9. Enter data into Ombudsmanager for reporting purposes and into Excel for tracking purposes.

10. Visit all long-term care facilities in the region as outlined in the LTCOP P&P's. Visit "problem facilities" as needed to monitor resident care.

11. Track care trends in facilities and share the results with facility staff and enforcement agencies as appropriate.

12. Review enforcement agency survey reports for assigned facilities.

13. Promote "culture change" concept in long-term care facilities.

14. Promote nontraditional methods of providing advocacy services such as granny cams and undercover operations.

15. Document all volunteer and staff activity in a facility and maintain program records and files.

16. Report observations, findings, and recommendations to the State Ombudsman.

17. Advise the State Ombudsman of high profile issues prior to initiating a course of action and provide regional and state systems advocacy as appropriate.

18. Review and comment on existing and proposed laws, regulation and other governmental policies

APPENDIX C

EXPECTATIONS FOR VOLUNTEER OMBUDSMEN

EXPECTATIONS for VOLUNTEER OMBUDSMAN

Volunteer Ombudsman enhance quality of life of long-term care residents by providing an advocacy presence during regular visits to assigned long-term care facilities (ltc), and by participating in related Ombudsman activities, such as complaint investigation and resolution.

Volunteers shall:

1. Complete required training sessions including visiting a long-term care facility with a mentor.
2. Visit long-term care residents a minimum of 3 hours each week.
3. Encourage, assist and empower residents to resolve their problems within the long-term care facility system.
4. Maintain the confidentiality mandate of the Long-Term Care Ombudsman Program at all times.
5. Obtain residents' or surrogate's permission for actions taken on residents' behalf.
6. Become knowledgeable regarding facility policies and procedures.
7. Participate in Resident Council Meetings and other long-term care activities if invited by the residents.
8. Contact, APS and Regional Coordinator immediately if abuse, neglect or exploitation are **witnessed**.
9. Inform Regional Coordinator of any problems requiring prompt attention.
10. Participate in monthly Ombudsman in-service meetings to expand education and upgrade techniques.
11. Mail monthly reports by the 7th of each month.
12. Do not disclose any information to an attorney regarding case unless authorized by the State Long Term Care Ombudsman or LTCOP-designated attorney.
13. Do not write letters on behalf of the facility prior to authorization of the State Ombudsman.
14. In your capacity as an Ombudsman volunteer, do not write letters to the editor or speak with the media without prior written authorization of the State Ombudsman.

Keep in Mind

15. If you will be away for a period of time (i.e., vacation) let your regional coordinator know so coverage can be arranged for your facility.
16. Residents are to be treated with dignity and respect at all times.
17. Do not initiate prayer or spiritual activities (for example, asking the resident if they would like to pray with you is inappropriate)
18. Remembering names of residents adds to resident's comfort level.
19. Shake hands when initiated by residents.
20. Always knock on doors of residents' rooms before entering.
21. Ask permission of residents to visit.
22. Follow facility rules about smoking.
23. Remember you are not a care giver - no food or drink to residents.
24. Do not lift residents or transport them in your private vehicle.

25. Hold in strict CONFIDENCE all medical and personal information about residents, staff, and other visitors or volunteers.
26. Promises made must be kept.
27. When in doubt about what action to take, check with Regional Coordinator.
28. Report **witnessed** abuse IMMEDIATELY to the Regional Coordinator; notify APS and DOH as appropriate.
29. Take copies of Ombudsman publications and brochures to leave with residents and families.
30. Fire Procedures: During one of your visits please discuss with the facility what their fire drill procedures are. Participation in their fire drills would be most beneficial.
31. Wear your nametag while on premises. A pictured ID and courtesy "business" cards will be provided.
32. You are responsible for your personal belongings (coat, purse, etc.) when visiting the nursing home. The LTCOP will not be responsible for personal losses.
33. Contagious Diseases: Nursing homes are requested by the Long-Term Care Ombudsman office to inform volunteers if a contagious disease exists in the facility. If a contagious disease is present, volunteers should not visit the facility or the affected residents until the situation is resolved. If volunteers are informed of the existence of communicable disease, notify the Regional Coordinator office. Volunteers should heed all warning signs related to contagious diseases or isolation areas.
34. As a general rule, volunteers should refrain from visiting a facility if experiencing illness or a communicable disease.
35. If there are any questions on policy/procedures/rules/regulations the Volunteer should call the Regional Coordinator or State Ombudsman for clarification.

PROGRAM STAFF FUNCTIONS TO SUPPORT VOLUNTEERS

It is the responsibility of LTCOP staff to inform nursing home administrators and facility staff regarding the duties and responsibilities of volunteer ombudsman. They are as follows:

- To initiate, investigate and resolve complaints made by or on behalf or residents.
- To act as a Resident Rights advocate for residents.
- To report any **witnessed** abuse (verbal/physical), neglect, real or suspected, directly to the LTCOP Regional Coordinator immediately; and to DOH, APS, and law enforcement if appropriate
- To tell informant to report to LTCOP directly and immediately;
- To act as facilitators helping residents/families express problems/concerns and to find solutions.
- To encourage residents/families to discuss concerns with appropriate staff, if possible.
- To develop good rapport with residents/families/staff

APPENDIX D

OMBUDSMAN REPORTING FORMS

OMBUDSMAN CASE REPORT

Today's Date: _____

Ombudsman's name: _____ Case #_____

Facility/city: _____

Complainant's name & address: _____

Contact complainant at: _____

Relationship of complainant to resident: _____

1-Resident; 2-Family/friend; 3-Non-relative guardian/legal representative; 4-Ombudsman; 5-Facility/provider/administrator/staff; 6-Other medical person, i.e. physician; 7-Representative of other social service agency or program; 8-Unknown; 9-Other

Requests anonymity: ____ Resident ____ Complainant

Resident's name:

(*If group, how many and where are they located [i.e. west wing])*

Age: ___ Sex: Date complaint received: Date of incident:

WHAT HAPPENED AND WHAT DID YOU DO?

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

May release information to Licensing? ____ Yes ____ No

_____

C O N F I D E N T I A L

Please fill in all that apply:

A. **Complaint code #** from coding sheet (there may be multiple complaint numbers for each case).

B. **Number of residents** affected by this complaint. Enter 1 if only one resident is affected.

C. **Verification of complaint:** 1-Verified; 2-Not verified (verified means the complaint is generally accurate). Ombudsman = A; APS = B; L & C = C; Med. Fraud = D. (Example: verified by ombudsman would be A1.)

D. **Who was complaint against?** 1-Facility; 2-Family; 3-Resident; 5-Medicaid; 6-Medicare; 7-M.D.; 8-Licensing or Certification agency; 9-APS; 10-Legal representative; 11-Other.

E. **Referred to:** 1-Licensing and Certification; 2-APS; 3-Both 1 & 2; 4-Legal representative (except Litigation Task Force); 5-Medicaid Fraud; 6-Not referred; 7-Litigation Task Force.

F. **Disposition** of Complaint: 8-Fully resolved (resolved means the problem was addressed to the satisfaction of the resident or complainant); 7 Partially Resolved 6-No action needed/appropriate; 5-Referred/other agency failed to act; 4-Referred/no final report; 3-Withdrawn; 2-Not resolved; 1-Legislative or regulatory action.

Comp #	A) Comp. Code	Explanation or short description	B) # of Res	C) Verified	D) Against	E) Ref'd to	F) Disp.
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

Date closed: _____ Complainant to resident: (#_____)

CONFIDENTIAL

OMBUDSMAN CASE REPORT FOLLOW-UP

CONFIDENTIAL

Ombudsman's name:_____ Case # _____

Facility/city:_____

Resident's name: _ _____

Date of this report:_____ Date of incident: _____

New developments (include any new referrals by you):_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____(__) continued on back

Disposition of Complaint: _____ (enter number)

8-Fully resolved (resolved means the problem was addressed to the satisfaction of the resident or complainant); 7-Partially resolved; 6-No action needed/appropriate; 5-Referred/other agency failed to act; 4-Referred/no final report; 3-Withdrawn; 2-Not resolved; 1-Legislative or regulatory action.

revised 6/02

OMBUDSMAN CASE REPORT FOLLOW-UP (CONTINUATION)

CONFIDENTIAL

	COMMENTS AND OBSERVATIONS	Disposition	Verified: Y/N	# Affected
RESIDENT				
ACTION				
COMPLAINT				

NEW MEXICO LONG TERM CARE OMBUDSMAN PROGRAM

OMBUDSMAN NAME:
FACILITY/CITY:
DATE OF VISIT:

# OF RESIDENT CONTACTS: **(FIRST TIME)**	# OF RESIDENT CONTACTS: **(REPEAT)**

OMBUDSMAN ACTIVITIES THIS VISIT	TIME SPENT
TIME SPENT IN FACILITY:	
RESIDENT COUNCIL:	
CARE PLAN MEETING:	
FAMILY COUNCIL:	
SURVEY CONFERENCE ☐ resident group ☐ exit	
VOLUNTEER INSERVICE TRAINING:	
TRAVEL:	
PAPERWORK:	

	TIME SPENT	#OF INDIVIDUALS
TRAINING GIVEN *(e.g. to facility staff or a community organization)*		
PHONE CONTACTS:		
INFORMATION TO INDIVIDUALS: *(e.g. residents, family, staff)*		

B. ACCESS TO INFORMATION					
D. CHOICE, RESIDENT RESIDENCY RIGHTS, PRIVACY					
E. PROPERTY					
F. CARE					
G. REHABILITATION OR MAINTENANCE OF FUNCTION					
H. RESTRAINTS					
I. ACTIVITIES & SOCIAL SERVICES					
J. DIETARY					
K. ENVIRONMENT					
M. STAFF					

The following coding categories usually require a <u>written case report and contact with your Coordinator:</u>

A. Abuse, Gross Neglect/Exploitation; C. Admission, Transfer, Discharge, Eviction; L. Administration; N. Certification/Licensing

Agency; O. State Medicaid P. Systems/Others; Q. Complaints in other that Nursing or Board/Care Settings

Coding for disposition: 2=not resolved; 6=no action needed/appropriate; 7=partially resolved; 8=fully resolved

OMBUDSMAN MONTHLY REPORT

Month of _____, 200_

Ombudsman's Name: _____

NAME OF FACILITY VISITED:	**NUMBER OF VISITS:**
_____	_____
_____	_____
_____	_____

Number of 1st time resident contacts. _____

Number of repeat resident contacts. _____

2.1.1 Facility Activities	Number	Hours
Resident council	_____	_____
Care planning	_____	_____
Family council	_____	_____
Survey conference (resident group) or (exit) (Circle one)	_____	_____

Total Time spent in facilities? _____
(Includes facility activities)

2.1.2 Outside Facility Activities	Number	Hours
Volunteer In-service Training	_____	_____
Travel	_____	_____
Paperwork	_____	_____
Other: _____ (e.g. Mentor, Outreach, Annual Meeting, etc)	_____	_____
Phone contact w/Coordinator or family	_____	_____
Information to Individuals (Include residents, family, staff, organizations, etc.)	_____	_____

Total hours spent for all Ombudsman activities? _____

OMBUDSMAN COMPLAINT CODING SHEET

RESIDENT RIGHTS

A. Abuse, Gross Neglect/ Exploitation
1 Abuse, Physical
2 Abuse, Sexual
3 Abuse, verbal/mental (including involuntary seclusion)
4 Financial exploitation (use E for less severe forms of financial complaints)
5 Gross neglect (use categories under "resident care" for less severe forms of neglect)
6 Resident-to-resident physical or sexual abuse

B. Access to Information
8 Access to own records by resident or resident's representative
9 Access to ombudsman/visitors
10 Access to facility survey
11 Information re: advance directive
12 Information re: medical condition treatment & any changes
13 Information re: rights/benefits/services
14 Information communicated in understandable language

C. Admission, Transfer, Discharge, Eviction
16 Admission contract and/or procedure
17 Appeal process: absent, not followed
18 Bed hold: written notice, refusal to readmit
19 Discharge/eviction: planning-notice-procedure, implementation
20 Discrimination in admission due to condition, disability
21 Discrimination. in admission due to Medicaid status
22 Room assignment/change/ intra-facility transfer

D. Autonomy, Choice, Preference, Exercise of Rights, Privacy
24 Choose personal physician/pharmacy
25 Confinement in facility against will (illegally)
26 Dignity, respect; staff attitudes
27 Exercise choice, preference/religious and/or civil rights (incl. right to smoke)
28 Exercise right to refuse care/treatment
29 Language barrier in daily routine
30 Participate in care planning by resident/surrogate
31 Privacy: telephone, visitors, couples, mail
32 Privacy in treatment, confidentiality
33 Response to complaints
34 Reprisal, retaliation

E. Financial, Property (Except for Financial Exploitation)
36 Billing/charges: notice, approval, questionable, accounting wrong/denied (includes overcharge of private pay residents)
37 Personal funds: mismanaged, access information denied, deposits & other money not returned (report criminal-level misuse of personal funds under #4).
38 Personal property lost, stolen, used, destroyed

RESIDENT CARE

F. Care
40 Accidents, improper handling
41 Call lights, requests for assistance
42 Care plan/resident assessment: inadequate, failure to follow plan or physician's orders (report lack of resident/surrogate involvement under #30)
43 Contracture
44 Medications: administration, organization
45 Personal hygiene (includes oral hygiene, nail care) and adequacy of dressing and grooming.
46 Physician services (includes podiatrist)
47 Pressure sores
48 Symptoms unattended, no notice-change in condition
49 Toileting
50 Tubes: neglect of catheter, Nasogastric (NG) tube use #28 for inappropriate/forced use)
51 Wandering, failure to accommodate/monitor

G. Rehabilitation or Maintenance of Function
53 Assistive devices or equipment
54 Bowel and bladder training
55 Dental services
56 Mental health, psychosocial services
57 Range of motion/ambulation
58 Therapies: physical, occupational, speech
59 Vision and hearing

H. Restraints: Chemical & Physical
61 Physical restraint
62 Psychoactive drugs assessment, use, evaluation

QUALITY OF LIFE

I. Activities & Social Services
64 Choice & appropriateness
65 Community interaction, transportation
66 Resident conflict, including roommates
67 Social services: availability/appropriateness (use #56 for mental health, psychosocial counseling/service)

J. Dietary
69 Assistance in eating or assistive devices
70 Fluid availability/hydration
71 Menu/food: quantity, quality, variation, choice, condiments, utensils, service
72 Snacks, time span between meals, late/missed meals
73 Temperature
74 Therapeutic diet
75 Weight loss due to inadequate nutrition

K. Environment
77 Air environment: temperature & quality (heating, cooling, ventilation water temperature, smoking)
78 Cleanliness, pests, general housekeeping
79 Equipment/building: disrepair, hazard, poor lighting, fire safety, no handicapped access, not secure
80 Furnishings, storage for residents
81 Infection control
82 Laundry: lost, condition, not used
83 Odors
84 Space for activities, dining
85 Supplies and linens

ADMINISTRATION

L. Policies, Procedures, Attitudes, Resources (See A through E for policies on advance directives, due process, billing, management of residents' funds)
87 Abuse investigation/ reporting
88 Administrator(s) unresponsive, unavailable
89 Grievance procedure (se C for transfer, discharge appeals)
90 Inappropriate/illegal policies, practices, record-keeping
91 Insufficient funds to operate
92 Operator inadequately trained
93 Offering inappropriate level of care (for board and cares/similar)
94 Resident/family council/ committee interfered with, not supported

M. Staffing
96 Communication, language barrier use #29 if problem involves resident's inability to communicate)
97 Shortage of staff
98 Staff training, lack of screening
99 Staff turnover, overuse of nursing pools
100 Staff unresponsive, unavailable
101 Supervision

PROBLEMS WITH OUTSIDE AGENCY, SYSTEM OR PEOPLE

N. Certification/Licensing Agency
103 Access to information (including survey)
104 Complaint, response
105 Decertification/closure
106 Intermediate sanctions
107 Survey process
108 Survey process: ombudsman participation
109 Transfer/eviction hearing

O. State Medicaid Agency
111 Access to info, application
112 Denial of eligibility
113 Non-covered services
114 Personal needs allowance
115 Services

P. System/Others
117 Abuse by family member/ friend/guardian/other or on visit out of facility or by any other person
118 Bed shortage; placement; lack of alternative settings
119 Board and care/similar facility licensing, regulation
120 Family conflict; interference
121 Financial exploitation by family or other not affiliated with facility
122 Legal: guardianship, conservatorship, power of attorney, wills
123 Medicare
124 PASARR
125 Resident's physician not available
126 Adult Protective Services or Protection and Advocacy
127 SSA, SSI, VA or other benefits
128 Request for less restrictive placement

Q. Complaints in Other Than Nursing or Board & Care/Similar Settings
129 Home care
130 Hospital or hospice
131 Public or other congregate housing not providing personal care
132 Shelters

APPENDIX E

CONDUCTING COMPLAINT INVESTIGATIONS

Investigation Procedures

There are a many steps that should be followed in the investigation of a complaint. Although not all of these steps are required for every investigation, these steps may include:

1. Resident statement. By initiating a private conversation with the resident and asking open ended questions such as "what happened?" and follow up questions for the purpose of obtaining detailed information. The ombudsman should refrain from asking leading questions such as "The food is terrible here, isn't it?"

2. Ask the nursing home administrator or director of nursing. By asking the administrator or DON directly if a certain condition exists or if a particular incident occurred, you may receive an admission of wrongdoing on the part of the facility or become informed of other circumstances that may alter the details or outcomes of events. This approach has a great deal of credibility because of your objectivity. As a general rule, use phrases such as, "a few; many; some" to protect resident anonymity.

3. Observe the situation personally. This is an excellent technique because it offers firsthand information concerning the situation. If anyone asks you how you know that the problem is real, you can reply, "I saw it." Or "I smelled it." Other senses should also be used as appropriate in an investigation.

4. Examine official written documents. State and federal survey forms, state survey agency complaint investigation reports, and license applications can provide documentation in writing. This category also includes other pieces of evidence on paper, such as letters, billings, legal documents and contents of resident's medical files, especially care plans and nurses, social services, therapy and physician's notes.

5. Review resident records. If the resident granted permission, you can look at records that deal with care, dietary matters, activities, social services, and inventories of the resident's personal property. Stress the need for residents and families to add to the resident's property inventory when items are brought into the facility (i.e., radios, televisions, and computers)

6. Talk with other residents. The original complainant may lead to other people experiencing the same problem. If several alert residents give information about the same problem, it very likely exists. Statements by residents, however, are often attacked and easily discredited because institutionalized people are often seen as unreliable and incompetent. This form of verification provides an opportunity to bring a problem to the attention of the facility without endangering an individual resident.

7. Question facility staff. In most cases, when you talk with non-supervisory level staff (aides/orderlies, housekeepers, clerks, and dietary helpers), you will have to assure confidentiality before they will provide information. Although an admission of a problem by these staff will not carry the authority of statements by the administrator or other official representatives of the facility, their statements may provide clues of where to find this information or documentation, and questions to ask.

Analyzing the Problem

When the information-gathering phase of the investigation is complete, the problem can be analyzed to help find a resolution. Analysis steps may include:

1. Why did the problem occur? - Once a problem has been identified, it should be analyzed in order to help you determine if the complaint is valid and choose a strategy for resolution. The ombudsman shall consider:
    - Was there an oversight on the part of the facility staff?
    - Was there a deliberate retaliation against the resident?
    - Is the problem related to policies/procedures of the facility?
    - Are there personality clashes between the resident/ relatives and staff?
    - Is the facility habitually short-staffed?
    - Does the resident's physical or mental condition make good care extremely difficult to provide?
    - Is the quality of care related to the resident's method of payment (i.e. Medicaid vs. private pay)?

2. What justification or explanation does the nursing home offer for the problem? Some possible positions, which the facility might give, include:
    - There is no problem or the facility meets the regulations and has a good inspection report. (this does not explain a negative resident outcome you are investigating)
    - The problem is due to "difficult" behaviors exhibited by resident or family member.(this does not explain a negative resident outcome you are investigating)
    - The facility's action is based on medical/professional judgment.(this does not explain a negative resident outcome you are investigating)
    - Review Care Plans and Minimum Data Set Assessments (MDS) to determine if medical diagnosis was made and a plan was established to address concerns.
    - Utilize the Resident Assessment Protocols (RAPS) to identify Triggers to certain problems/behaviors including the following:
        - Activities of Daily Living (ADL's), Behavioral Symptoms, Dementia, Communication, Dehydration, Dental Care, Falls, Feeding Tubes, Mood State, Nutritional Status, Pressure Ulcers, Mental Health/Well-Being, Psychiatric Drug Use, Incontinence, Visual Function

3. Who or what is at fault regarding the problem? The cause may rest with one or more of the following:
    - Facility staff failed to perform their duties properly
    - State/federal regulations are not enforced or are not specified
    - Third-party reimbursement programs may not pay for certain procedures
    - Independent professionals (e.g., doctor, physical therapist) may not leave clear instructions for resident and staff to follow
    - The resident or family may be causing or contributing to the problem/conflict.

Suggestions for Conducting Investigations

1. Interviewing - Interviewing is a primary component of complaint investigation. Interviewing is not interrogating! The LTCO shall conduct an interview with a specific purpose in mind. In preparing for an interview, the LTCO shall consider
    - The setting—is it comfortable, quiet, and private?
    - The time allotted—will the interviewer be hurried?
    - The timing—will there be interruptions?
    - The goals of the interview—these should be listed beforehand.
    - The possible biases of both yourself and those being interviewed.
    - Maintain objectivity (don't make assumptions about the validity of the information);
    - Establish rapport before addressing the problem.

2. Interview Questions - Explain the function of the Ombudsman and the purpose of the interview
    - **Listen**
    - use open-ended question to encourage responses about the problem area , such as "why do you think the resident is upset?";
    - use closed-ended question to obtain specific details and facts, such as "what time did that occur?";
    - use language that is easy to understand; explain any technical terms;
    - guide the interview toward the desired goals, yet be flexible enough to adjust the goals according to any new information received;
    - let the resident know when the interview is about to end; summarize what has been accomplished; explain how the information will be used and other steps anticipated in conducting the investigation and resolving the complaint. Secure the resident's consent to the planned action before proceeding.
    - Is the quality of care related to the resident's method of payment (i.e. Medicaid vs. private pay)?

APPENDIX F

COMMON ABBREVIATIONS AND ACRONYMS

COMMON ABBREVIATIONS AND ACRONYMS

ALF	Assisted Living Facility (aka adult residential care facility; shelter home)
APS	Adult Protective Services
DOH/ HFLC	Department of Health, Health Facility Licensing and Certification Bureau (Surveys & Complaints)
LTC	Long-Term care
LTCO	Long-Term Care Ombudsman
LTCOP	Long-Term Care Ombudsman Program
NF/SNF	Nursing Facility/Skilled Nursing Facility
RC	Regional Coordinator
SLTCO	State Long-Term Care Ombudsman

Non-medical abbreviations

TCF	Telephone Call From
TCT	Telephone Call To (voicemail indicate in text i.e. TCT Mrs. Smith-left voicemail)
RCF	Return Call From
VMF	VoiceMail From
RVM	Return VoiceMail
VM	Voice Mail
EMF	E-Mail From
EMT	E-Mail To
LF	Letter From
LT	Letter To
FAX	Fax
FV	Facility Visit
PC	Personal Contact
AAA	Area Agency on Aging
AARP	American Association of Retired Persons
AD	Advance Directive
ADA	Americans with Disabilities Act
ADL	Activities of Daily Living
AG	Attorney General
AHCD	Advanced Health Care Directive
AoA	Administration on Aging
B&C	Board & Care
CNA	Certified Nursing Assistant
CNP	Certified Nurse Practitioner
COPD	Chronic Obstructive Pulmonary Disease
DDPC	Developmental Disabilities Planning Council/Office of Guardianship
D&E Waiver	Disabled and Elderly Waiver, now called Centennial Care (Medicaid managed care)
DNH	Do Not Hospitalize

DNI	Do Not Intubate
DNR	Do Not Resuscitate
DOH	Department of Health
DON	Director of Nursing or DNS Director of Nursing Services
HCBs	Home and Community Based Services
HSD	Human Services Department, State Medicaid program
IADL	Instrumental Activities of Daily Living
ISD	Income Support Division, Medicaid financial eligibility
ISP	Individual Service Plan
KePRO	Medicare benefits review
LiHEAP	Low-Income Home Energy Assistance Program
LREP	Legal Resources for the Elderly Program
MAR	Medication Administration Review (medication record)
MCO	Managed Care Organization
MDS	Minimum Data Set (resident assessment tool)
MFCU	Medicaid Fraud Control Unit
NA	Nursing Assistant
NF	Nursing Facility
NMLTCOP	New Mexico Long Term Care Ombudsman Program
OAA	Older Americans Act
OBRA	Omnibus Budget Reconciliation Act
P&A	Protection and Advocacy (now called Disability Rights New Mexico)
PA	Physician's Assistant
PASARR	Pre-Admission Screening and Annual Resident Review
POA	Power of Attorney
POC	Plan of Correction – LTC Facility post-survey requirement
RAP	Resident Assessment Process/Profile
SCLO	Senior Citizens Law Office – similar to LREP
SNF	Skilled Nursing Facility
S/S	Social Services
SSA	Social Security Administration
SSI	Supplemental Security Income
SUA	State Unit on Aging
UHCDA	Uniform Health Care Decisions Act
VA	Veteran's Administration

Medical Abbreviations

IM	intramuscular
IV	intravenous
IV IP	intravenous piggy back
SC	subcutaneous
p.o.	by mouth, orally
O.D.	right eye
O.S.	left eye
O.U.	both eyes
a.c.	before meals
p.c.	after meals

ad. Lib.	As desired, freely
p.r.n	when necessary
h.s.	hour of sleep, at bedtime
stat	immediately, at once
q.d.	once a day, every day
q.o.d.	every other day
b.i.d.	twice a day
t.i.d.	three times a day
q.i.d.	four times a day
q.h	every hour
q.2h	every two hours
q.3h	every three hours
q.4h	every four hours
q.6h	every six hours
q.8h	every eight hours
q.12h	every twelve hours
a	before
p	after
c	with
s	without
q	every
aq	water
NPO	nothing by mouth
ss	one-half
gtt	drop

APPENDIX G

PROCEDURE FOR LOANING
"GRANNY CAMS"

PROCEDURE FOR LOANING "GRANNY CAMS"

Regional Coordinators will:

1) Open a file folder on the resident.

2) Prior to coming to your office to pick up camera & VCR, tell guardian/POA to:
   - Obtain a T-160 VCR tape
   - Talk to the facility about intentions and fill out patient authorization for both resident and **roommate** to bring at time of camera pick up.

3) Bring the following to Regional Coordinator's office at the time of Camera/VCR pickup:
   - Driver's License (for copying)
   - Resident's Medicaid or other insurance card (for copying)
   - Proof of guardianship or POA (for copying).

4) Have borrower fill out "Application To Borrow Electronic Monitoring Equipment Form". We fill in the Serial #'s & State Inventory Control #'s for the Camera & VCR. We sign & fill in dates under "acceptance".

APPENDIX H

APPLICATION FORMS FOR "GRANNY CAMS"

FORM H – 1
APPLICATION TO BORROW
ELECTRONIC MONITORING EQUIPMENT FROM
THE NEW MEXICO LONG-TERM CARE OMBUDSMAN PROGRAM -

I, _____, would like to borrow the electronic monitoring and related equipment (collectively, the "equipment") listed below from the New Mexico Long- Term Care Ombudsman Program so that I can conduct electronic monitoring in my room at _____ (the "facility") in accordance with the terms of the Patient Care Monitoring Act. The specific equipment is as follows:

VIDEO CAMERA:

1. GE KTC-217CV3 Color Camera, Serial No._____
   State Inventory Control No. _____,
2. Operator's Manual;
3. Mounting Bracket; and
4. Extension Bar.

VIDEO CASSETTE RECORDER:

5. PELCO TLR 3040 Time Lapse Recorder; Serial No. _____
   State Inventory Control No. _____
6. Operator's Manual;
7. Lock-Out Sheet;
8. 12' TV Cable;
9. Cable (attached);
10. Eye Bolt;
11. Pad Lock; and
12. Key.

In order to borrow the equipment, I represent to the Ombudsman Program the following facts:

1. I am eligible for institutional Medicaid, and the New Mexico Medicaid program is paying for my care at the facility or;

2. I cannot afford to purchase or rent my own electronic monitoring equipment.

3. I have been provided a copy of Rule 9.2.23 NMAC, Patient Care Monitoring in Long-Term Care Facilities, and will follow those regulations in the installation and use of the equipment.

4. If I have a roommate, I have obtained the consent of my roommate to use the equipment in my room, and I will abide by any restrictions my roommate has placed on the use of the equipment.

5. I understand that I must pay all costs associated with installing, operating and maintaining the equipment except the cost of electricity. I also understand that I will be responsible for purchasing any videotape that I will use for the electronic monitoring.

6. I understand that the facility is not required to allow anyone, who is not a licensed contractor or other non-licensed person approved by the facility to make any structural changes to my room. Therefore, I will not make any structural changes to my room, and I will not authorize any other person to do so, without the facility's consent.

7. I understand that the facility is allowed to charge a refundable damage deposit of up to $150 to cover the cost of repairing any damages to the facility caused by my installation and use of the equipment. If the facility charges a damage deposit, I agree that I will be responsible for paying it.

8. I understand that the equipment that I wish to borrow from the Ombudsman Program is valuable, and that I will be responsible for it while it is in my possession. I agree that if the equipment is lost, stolen or damaged while it is in my possession, I may be responsible for reimbursing the Ombudsman Program the cost of replacing or repairing it. In order to help guard against the equipment being lost, stolen or damaged, I also agree to install and secure the equipment in accordance with any instructions that the Ombudsman Program provides to me.

9. If the equipment breaks while it is in my possession, I will immediately report the breakage to the Ombudsman Program, and I will not attempt to fix the broken equipment myself.

10. I understand that I must return the equipment to the Ombudsman Program in the same condition that I received it, normal wear and tear excepted, no later than the date listed in the Acceptance, below.

_____

Print or type Applicant's name
(If signing in a representative capacity, so indicate.)

_____
Signature

_____
Date

ACCEPTANCE

This Application is hereby accepted, and the equipment will be lent to the Applicant on the terms set forth in this Application. The Applicant must return the equipment to the Ombudsman Program no later than 5:00 p.m. on _____(date).

_____
Authorized signature

FORM H – 2

APPLICATION TO BORROW DIGITAL CAMERA EQUIPMENT FROM THE NEW MEXICO LONG-TERM CARE OMBUDSMAN PROGRAM

I, _____, would like to borrow the digital camera and related equipment (collectively, the "equipment") listed below from the New Mexico Long-Term Care Ombudsman Program ("LTCOP") to use for my duties as a Volunteer Ombudsman with the LTCOP. The specific equipment is as follows:

DIGITAL CAMERA:

1. Kodak Easy Share One Camera;
   Serial No. _____;
   State Inventory Control No. _____;

2. Kodak Easy Share Photo Printer 500;
   Serial No. _____;

3. Kodak Wi-Fi Card;

4. Two Kodak Easy Share Li-Ion Rechargeable Batteries (one in camera);

5. Kodak Li-Ion Rapid Battery Charger;

6. Kodak AC Adaptor;

7. Kodak Carrying Case; and

8. Miscellaneous Cords and Attachments.

In order to borrow the equipment, I represent to the LTCOP the following facts:

1. I have been provided a copy of the LTCOP's policies and procedures for using cameras and other recording devices in long-term care facilities, and I will follow those policies and procedures while using the equipment.

2. I understand that the equipment that I wish to borrow from the LTCOP is valuable, and that I will be responsible for it while it is in my possession. I agree that if the equipment is lost, stolen or damaged while it is in my possession, I

may be responsible for reimbursing the LTCOP the cost of replacing or repairing it.

3. If the equipment breaks while it is in my possession, I will immediately report the breakage to the LTCOP, and I will not attempt to fix the broken equipment myself.

4. I understand that I must return the equipment to the LTCOP in the same condition that I received it, normal wear and tear excepted, upon request of the LTCOP or upon leaving the LTCOP.

_____

Print or type Volunteer Ombudsman's name

_____

Signature

_____

Date

ACCEPTANCE

This Application is hereby accepted, and the equipment will be lent to the Volunteer Ombudsman on the terms set forth in this Application.

_____

Authorized signature

_____

Date

FORM H – 3
APPLICATION TO BORROW
MONITORING EQUIPMENT FROM
THE NEW MEXICO LONG-TERM CARE OMBUDSMAN PROGRAM

I, _____, (resident or legally authorized decision maker) would like to borrow the digital monitoring and related equipment (collectively, the "equipment") listed below from the New Mexico Long-Term Care Ombudsman Program so that I can conduct digital monitoring in my room at _____ (the "facility") in accordance with the terms of the Patient Care Monitoring Act. The specific equipment is as follows:

DIGITAL CAMERA:

1. Moultrie M-80-XT Color Camera Serial No. _____
2. Operator's Manual
3. Camera mount
4. Cable (attached)and black pouch
5. Master Lock – word combination
6. Mounting Strap
7. 8 AA Batteries
8. 1 8.0 GB Memory Card X 2 (one in machine and one extra)

I, the borrower, agree to the following statements and shall abide by the following conditions:

1. I have received the digital camera and all associated equipment listed in 1 – 9 above that the Ombudsman Program is loaning me.

2. I cannot afford to purchase or rent my own electronic monitoring equipment.

3. I have been provided a copy of administrative rule 9.2.23 NMAC, Patient Care Monitoring in Long-Term Care Facilities, and will follow those regulations in the installation and use of the equipment.

4. If I have a roommate, I have obtained the consent of my roommate to use the equipment in my room, and I will abide by any restrictions my roommate has placed on the use of the equipment.

5. I understand that I must pay all costs associated with installing, operating and maintaining the equipment except the cost of electricity. I also understand that I will be responsible for purchasing any additional batteries for the digital monitoring equipment and may purchase additional memory cards at my own expense.

6. I understand that the facility is not required to allow anyone, who is not a licensed contractor or other non-licensed person approved by the facility to make any structural

changes to my room. Therefore, I will not make any structural changes to my room, and I will not authorize any other person to do so, without the facility's consent.

7. I understand that the facility is allowed to charge a refundable damage deposit of up to $150 to cover the cost of repairing any damages to the facility caused by my installation and use of the equipment. If the facility charges a damage deposit, I agree that I will be responsible for paying it.

8. I understand that the equipment that I wish to borrow from the Ombudsman Program is valuable, and that I will be responsible for it while it is in my possession. I agree that if the equipment is lost, stolen or damaged while it is in my possession, I may be responsible for reimbursing the Ombudsman Program the cost of replacing or repairing it. If I feel the facility is at fault for the disappearance or damage to the equipment I will contact the Ombudsman Program immediately.

9. In order to help guard against the equipment being lost, stolen or damaged I agree to install and secure the equipment in accordance with any instructions that the Ombudsman Program provides to me.

10. If the equipment breaks, demonstrates signs of deterioration, is lost or is stolen while it is in my possession, I will immediately report this to the Ombudsman Program. I will not attempt to repair broken or faulty equipment myself.

11. I understand that I must return the equipment to the Ombudsman Program in the same condition that I received it, normal wear and tear excepted, when I no longer wish to use it or in the event I move or am discharged, no later than one week after I change residence, unless agreed upon by the Ombudsman Program and myself in writing.

_____

Borrower's printed name or legally authorized decision-maker
(If signing in a representative capacity, so indicate.)

_____

Signature

_____

Date

_____

Ombudsman Regional Coordinator's signature

_____

Date

APPENDIX I

LTCOP POLICY REGARDING USE OF RECORDING DEVICES

State of New Mexico
Long-Term Care Ombudsman Program

Policy regarding the use of recording devices.

Policy effective date: November 20, 2006.

Neither staff nor volunteer ombudsmen shall use audio or video recording devices in the performance of their duties without the prior consent of all persons present. Exceptions to this policy require the written permission of the State Long-Term Care Ombudsman or the Cabinet Secretary of the Aging and Long-Term Services Department.

NEW MEXICO AGING & LONG-TERM SERVICES DEPARTMENT

Bill Richardson, Governor
Deborah Armstrong, Secretary

State of New Mexico
Long-Term Care Ombudsman Program

Policy regarding the use of recording devices.
Policy effective date: November 20, 2006.

Neither staff nor volunteer ombudsmen shall use audio or video recording devices in the performance of their duties without the prior consent of all persons present. Exceptions to this policy require the written permission of the State Long-Term Care Ombudsman or the Cabinet Secretary of the Aging and Long-Term Services Department.

Sondra Everhart — State LTC Ombudsman — Nov. 17, 2006 — Date

Deborah Armstrong — ALTSD Cabinet Secretary — 11/20/06 — Date

Toney Anaya Building • 2550 Cerrillos Road • Santa Fe, New Mexico 87505
505-476-4799 • Toll-free 1-866-451-2901 • www.nmaging.state.nm.us

Susana Martinez, Governor
Gino Rinaldi, Cabinet Secretary

Myles Copeland, Deputy Secretary

Consent to Videotape/Audiotape/Photograph Release Form

I _____ hereby give permission for (circle which is applicable) **Videotape/Audiotape/Photographs** to be taken of:

_____Me

_____My belongings

_____My living space

The New Mexico Long-Term Care Ombudsman Program may use these photographs for any purpose which furthers my rights as a resident of a long-term care facility.

_____ _____

Signature of Resident **Date**
or Legal Representative, where appropriate

My approval for use of these materials expires six months from the date signed above.

Partners in Lifelong Independence and Healthy Aging
1015 Tijeras NW, Suite 200 • Albuquerque, New Mexico 87102-3994
505-222-4500 • Toll-free in New Mexico 1-866-842-9230 • www.nmaging.state.nm.us

LTCOP Photographing or Taping Policies and Procedures

1. Complete a Release Form for photographs/audiotaping/videotaping for each resident.

2. If mental competency of the resident is in question, have the POA or, in the absence of the POA, have a family member co-sign the Release Form.

3. No Release Forms are required for photographs of common or non-identifying areas. (kitchens, baths, yards, etc.)

4. Keep spatial relationships in mind. If size or dimensions of the problem are relevant to the investigation, use a known item to show a size relationship. Examples would be a pen, a ruler, a business card, or a clipboard. Pictures taken at different angles or different distances may be helpful. If time or date is relevant to the investigation, consider photographing a newspaper or clock displaying this information.

5. Pictures of staff should be taken only when they are with residents or engaged in questionable activities.

6. Volunteers may tape or photograph only with the prior knowledge of the Regional Coordinator. The exception would be an immediate need to document an unsafe, harmful or abusive situation. In these cases, the State Ombudsman must be notified immediately.

APPENDIX J

OMBUDSMAN PROGRAM RELATIONSHIPS

Ombudsman Program Relationships

Aging and Long-Term Services Department: (ALTSD) The Ombudsman program, although housed in ALTSD must remain an independent and autonomous voice for long-term care residents and will work with Department executives to ensure clear communication about public policy and legislative issues.

Department of Health, Division of Health Improvement (DOH/DHI): Joint systemic overview of New Mexico's LTC industry, complaint referrals, cooperative support of efforts to protect LTC residents, and joint oversight of licensed LTC facilities and representation on the Informal Dispute Resolution Board (IDR).

Adult Protective Services (APS): Ombudsmen are mandatory reporters of abuse, neglect and/or exploitation if witnessed, cooperative support of efforts to protect LTC residents and citizens, and joint oversight of unlicensed ltc facilities.

Aging and Disability Resource Center: Mutually supportive efforts at public education (health fairs, flyers and the like), respond to referrals of complaint calls received in the ADRC, keep both staffs up to date on new services and program changes, and cooperative systemic support to increase quality and quantity of LTC services.

Human Services Department, Medicaid Division, Centennial Care Bureau: Mutual support for resident and citizen resolution of complaints about managed care service delivery (Medicaid Waiver Program and the MCOs), cooperative advocacy for systemic changes to the managed care system in New Mexico.

Aging Network: Collaborative education and support efforts to promote civic engagement, and well-being of elders in accordance with the mission of ALTSD.

Administrative Services Division: Mutually supportive relationship to ensure fiscal health of the program and adherence to state personnel policies.

Information Technology: Mutually cooperative support to ensure that staff have access to technology that supports advocacy services.

Aging Constituent Services: Work cooperatively to ensure that citizen complaints and concerns are resolved and contracted legal services (e.g. LREP, SCLO, Disability Rights New Mexico) are supported.

Office of General Counsel: Seek legal advice and maintain clear communication to ensure program/department awareness of and adherence to LTCOP federal and state mandates.

Managed Care Organizations: Advocate on behalf of residents to ensure timely and quality care, follow-up of discharge needs and advocate for systemic changes.

Ombudsman may also provide resource and resident rights education to MCO's and their personnel.

HealthInsight New Mexico: Mutually supportive education and quality care efforts with New Mexico's CMS designated Quality Improvement Organization (QIO) for quality care in New Mexico's nursing homes.

Other Advocacy Committees and Advisory Roles: The Ombudsman Program is asked to participate in committees to ensure that elderly, disabled and vulnerable residents have a voice. Ombudsman staff or volunteers may be designated by the SLTCO to represent the LTCOP. These include:

Aging and Disability Stakeholders Groups
Behavioral Health Shelter Home Oversight
CMS Services Coalition
Guardianship Advisory Committee
Innovative Network (Culture Change)
National Association of State Ombudsman Programs (NASOP)
Pain Initiative
Partnership to Improve Dementia Care
Sex Offender Management Board
State Attorney General's Office
Statewide Facilities Joint Protocol
Transportation Task Force